IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.MC.No. 2215 of 2007()

CC.201/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PERINTHALMANNA
CRIME NO.101/05 MELATTOOR POLICE STATION

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PETITIONER: ACCUSED NO.1:

UMMER HAJI, S/O.KUNJALAVI HAJI,
CHALIYATHODI HOUSE, KEEZHATTOOR P.O.,
MALAPPURAM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE/COMPLAINANT:

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER, MELATTOOR POLICE STATION, MALAPPURAM.

BY P.P. SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2215 OF 2007

Dated this the 11th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.332 read with Sec.149 of the IPC. Investigation is complete. Cognizance has been taken. But consequent to the non-appearance of the petitioner before the learned Magistrate, the petitioner finds a warrant of arrest issued by the learned Magistrate chasing him now. According to the petitioner, he is absolutely innocent. His non-appearance was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case against him. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner

has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate

must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge